

LEGAL SERVICES

06 JUN 2011

BOARD



Costs Lawyer Standards Board
Centurion House
129 Deansgate
Manchester
M3 3WR

Office: 0161 214 7904
Mobile: 07771 663317
Email: ceo@clsb.info

Friday 3 June 2011

Consultations Section
Legal Services Board
7th Floor, Victoria House
Southampton Row
London, WC1B 4AD

Consultation paper: Developing regulatory standards

Dear Sirs,

Thank you for this consultation paper, in response we reply as follows:

We would expect any approach on regulatory standards to include consideration of the following:

1. The ranking of Approved Regulators ("AR's") based on the risks they pose to the consumer.
2. A proportionate regulatory strategy based on that risk ranking and risks identified.
3. An analysis of AR cost/consumer benefit on expectations placed on AR's.
4. An analysis of Legal Service Board ("LSB") cost/consumer benefit on expectations placed on AR's.
5. Review again in say two years once initial structures and expectations have been put in place to avoid "job justification" making regulatory standards an increasingly onerous and overly expensive process with no real benefit.
6. Reflect what the consumer would consider as sensible and reassuring.

Core element 1: An outcomes-driven approach to regulation that gives the correct incentives for ethical behaviour and has effect right across the increasingly plural and divers market.

When working in the interest of the consumer we would prefer to see the use of plain English rather than “management speak.” Be clear to the consumer what you mean by “outcomes-driven approach”.

Core element 2: *A robust understanding of the risks to consumers associated with legal practice and the ability to profile the regulated community according to the level of risk.*

We believe that proportionate regulation by risk ranking and risks identified within each profession is the appropriate way forward. Risk management processes need not be overly complicated to be effective and AR’s should be allowed to devise a risk management strategy that works for them within their profession.

Core element 3: *Supervision of the regulated community at entity and individual level according to the risk presented.*

Some level of supervision may be necessary in some of the AR professions based on risk ranking and risks identified. The nature of the profession would have to be taken into consideration for example, mention is made in the document of “*planned site visits.*” Many Costs Lawyers are sole practitioners who work from home and it would be unreasonable to expect the CLSB to incur the massive cost of employing someone full time, providing them with a company car, petrol and hotel accommodation to drive around England & Wales to stand over a Costs Lawyers whilst they work at their kitchen table. Mention is also made of “*returns*” and “*thematic reviews.*” These would be more appropriate for the profession of the Costs Lawyer, but again, the LSB/CLSB has to take great care in ensuring onerous bureaucracy does not drive Costs Lawyers out of its regulated community. Expectations would have to be reasonable and justified.

Core element 4: *A compliance and enforcement approach that deters and punishes appropriately.*

We do not consider the word “punish” appropriate, reprimand or discipline would be more suitable.

Question 1

We agree with the general analysis of the changing legal services market.

Question 2

We agree with proportionate regulation by risk. We have concerns, as stated above, as regards supervision within the Costs Lawyer profession.

Question 3

The regulated community has many variances across the professions e.g. their roles and work undertaken, risks posed, how members work (firms/sole practitioners), members incomes, membership levels, professional fee levels etc. As a result flexibility and understanding is essential in the development of regulatory regimes.

Question 4

The role of the LSB is to oversee regulation carried out by AR’s and on that basis the LSB should not stray into management of AR’s.

Question 5

Needless bureaucracy has no real benefit, drains time/resources and potentially demoralises membership. Unless a real benefit can be substantiated do not request or place an expectation on any AR.

Question 6

Be clear as to what you would expect to see under each stated criteria and be proportionate based on risk.


In conclusion we believe the following should be the main focus in developing regulatory standards:

- Proportionate regulation based on risk ranking/risk within each profession.
- Regulation based on cost (both LSB and AR)/consumer benefit.

We hope our comments above assist.

We would be grateful if you would kindly acknowledge safe receipt of this letter.

Yours faithfully,



Lynn Plumbley
Chief Executive